

PROPOSED CHARGING LETTER

Mr. Burckhard Schneider
President
Interturbine Aviation Logistics GmbH
Kisdorfer Weg 36-38
24568
Kaltenkirchen, Germany

Mr. Soenke Hansen
Vice President Business Development Worldwide
Interturbine Aviation Logistics GmbH
2617N. Great Southwest Pkwy
Grand Prairie, Texas 75050

Re: Investigation of Interturbine Aviation Logistics GmbH, Germany and
USA, Regarding Potential Violations of the Arms Export Control Act
and the International Traffic in Arms Regulations

Dear Messrs. Schneider and Hansen:

The Department of State ("Department") charges Interturbine Aviation Logistics GmbH USA/Texas ("Interturbine Texas") and its parent company Interturbine Aviation Logistics GmbH, Germany ("Interturbine Germany") (collectively referred to as "Respondents") - formerly known as Interturbine Logistik GmbH - with violations of the Arms Export Control Act ("AECA") (22 U.S.C. §§ 2778-2780) and the International Traffic in Arms Regulations ("ITAR") (22 C.F.R. Parts 120-130) in connection with the unauthorized export of ITAR-controlled ablative material to Germany and other matters as set forth herein. Seven (7) violations are alleged at this time. The essential facts constituting the alleged violations are described herein. The Department reserves the right to amend charging letters, including through a revision to incorporate additional charges stemming from the same misconduct of the Respondents in these matters. Please be advised that this Proposed Charging Letter provides notice of our intent

to impose debarment or civil penalties or both in accordance with section 128.3 of the ITAR.

The Department considered the Respondents' remedial compliance measures and cooperation as significant mitigating factors when determining the charges to pursue in this matter. However, given that the Respondents disclosed the violations only after a violation was detected by the Government and the national security interests involved, the Department has decided to charge the Respondents with seven (7) violations at this time. We note that had the Department not taken into consideration Respondents' cooperation and remedial compliance measures as significant mitigating factors, the charges against and penalties imposed upon the Respondents would have been more significant.

BACKGROUND

The Respondents' include the parent company, Interturbine Germany, which is a German corporation with numerous world-wide Distribution Centers/Sales Offices employing approximately 140 persons, and one of Interturbine Germany's subsidiaries, Interturbine Texas. Respondents are distributors of products for international commercial aviation and some related industries.

On or about August 17, 2004, Respondents did, through actions of their officers, agents and employees, knowingly and willfully export a shipment of ITAR-controlled ablative material and sealant, categorized as significant military equipment, without obtaining a required Department export license. Prior to June 2004, this ablative material and sealant had been incorrectly marketed internationally by its manufacturer and third parties as non-ITAR controlled. In June and July 2004, the manufacturer notified its customers – and Respondents – that the product was part of a “family of products” that “had been defined as a strategic raw material for munitions (weapons) by the US government”, “was not approved for export outside of the US/Canada” and “cannot be exported from the United States without a valid export license issued from the Department of State.”

At the time of the violations, Interturbine Texas was not registered with the Department as an exporter.

On January 10, 2007, in the Northern District of Texas, after a criminal investigation by the U.S. Attorney's Office and Immigration and Customs Enforcement, the U.S Justice Department adjudicated its case against the

Respondents without taking formal enforcement action. This non-penalty resolution was specifically premised on execution of the compliance measures and other remedial actions taken by Respondents. These measures are referenced above as significant mitigating factors in this administrative action.

JURISDICTION

Interturbine Texas is a branch office of Interturbine Aviation Logistics GmbH, formerly known as Interturbine Logistik GmbH and is a limited liability company operating under the laws of the State of Texas.

Interturbine Aviation Logistics GmbH is a German corporation organized under the laws of Kiel, Germany.

During the period covered by the offenses set forth herein, Interturbine Texas engaged in the export of a defense article, and was not registered as an exporter with the Department of State, Directorate of Defense Trade Controls ("DDTC") in accordance with section 38 of the AECA and section 122.1 of the ITAR.

Respondents are persons within the meaning of the AECA and the ITAR, and are subject to the jurisdiction of the United States.

The defense article, the Dow Corning 93-104 Ablative Material and Sealant, associated with the violation(s) outlined below, is controlled under Category IV(f) of the U.S. Munitions List ("USML"), section 121.1 of the ITAR. The Dow Corning 93-104 Ablative Material and Sealant is further defined as Significant Military Equipment ("SME"), requiring a DSP-83 Non-Transfer and Use Certificate.

UNAUTHORIZED EXPORT

Respondents maintain a computerized inventory list of products sold by the company. One of the products listed by Respondents was Dow Corning (DC) 93-104 Ablative Material and Sealant. This product was originally entered into Respondents' computerized inventory on April 16, 2003.

At that time, Respondents' computer inventory inaccurately indicated that DC 93-104 Ablative Material and Sealant was under the Department of Commerce jurisdiction. DC 93-104 is a heat resistant protective coating that can be used on missiles to protect high heat areas.

On June 24, June 29, and July 1, 2004, Dow Corning notified Respondents that DC 93-104 Ablative Material and Sealant was part of a "family of products" that "has been defined as strategic raw material for munitions (weapons)," and "cannot be exported from the United States without a valid export license issued from the Department of State." Dow Corning further stated that it would no longer be selling DC 93-104 outside of the United States and Canada. Dow also stated that "any orders that have recently been received will be canceled."

Consistent with Dow Corning's notifications, Respondents revised the company's computerized inventory system to show that DC 93-104 Ablative Material and Sealant was under the Department's jurisdiction. Up until this time Respondents had not exported this or other ITAR-controlled articles.

In June of 2004, a German company, Bayern-Chemie, inquired with Interturbine Germany about purchasing DC 93-104 Ablative Material and Sealant as a temperature stable sealant.

An employee from Interturbine Germany's Business Development group visited Bayern-Chemie's purchasing department to discuss selling it DC 93-104. After his visit, the employee prepared a report documenting that the product was "listed on the banned substances list" and "may not to be sold outside of the USA and Canada." Bayern-Chemie was no longer able to obtain DC 93-104 from Dow Corning or its previous suppliers. Dow Corning had notified customers that it was no longer selling DC 93-104 outside the United States or Canada due to export controls on this munitions product. The Business Development employee indicated in his report that this was an excellent opportunity for Interturbine Germany to obtain a profitable new customer by selling Bayern-Chemie the article.

The Business Development employee provided a copy of his report to his supervisor the Vice President for Business Development. Although both the Business Development employee and the Vice President were aware of the export restrictions on DC 93-104 that were reflected in the Respondents' computer inventory, they decided to pursue the sale to Bayern-Chemie.

The Business Development employee instructed an intern employee of Interturbine Germany to prepare a purchase order for the DC 93-104. This intern employee checked Respondents' computerized product inventory and found that the DC 93-104 was listed as export controlled. When this intern employee questioned the Business Development employee about this notification, the Business Development employee violated company policy and falsely assured him that the transaction had been cleared for export to Germany. The intern employee then placed the order for 400 kilograms of DC 93-104 with Dow Corning for delivery to Interturbine Texas.

MISREPRESENTATION/OMISSION of FACTS

Interturbine Germany's usual business procedure was to have the ordered articles shipped from its local warehouse directly to the end-user using Federal Express or an equivalent freight forwarder. In this case, Interturbine Germany's Business Development employee effectuated his work-around of the company controls by having the 400 kilograms of DC 93-104 (ordered by Bayern-Chemie) shipped from Dow Corning in the U.S. to Interturbine Texas and subsequently to the Interturbine German facility, which was not the ultimate end-user. On August 17, 2004 Interturbine Texas shipped the order to Interturbine Germany, without authorization, using a shipping company affiliate, Interturbine Transport. When Interturbine Texas prepared the Shipper's Export Declaration it falsely listed the DC 93-104 as "Other Parts of Airplanes or Helicopters, NLR" (NLR means "No License Required").

After the 400 kilograms of DC 93-104 cleared German Customs at Interturbine Germany, Interturbine Germany's Vice President for Business Development, in a further effort to conceal the unauthorized transaction, deleted the computerized Interturbine delivery note showing the export from the U.S. to Germany from the system. This meant that the system reflected that the 400 kgs. were still in inventory at the Interturbine Texas facility instead of having been exported. He then created a new false delivery note showing the shipment originating at Interturbine Germany for delivery to Bayern-Chemie.

On August 26, 2004, after accepting the delivery of the DC 93-104, Bayern-Chemie contacted Interturbine Germany about the lack of a United States export authorization for the shipment. Bayern-Chemie further informed Interturbine

Germany that it was suspending payment and quarantining the shipment until the license issue was resolved.

Subsequently, Interturbine Germany initiated an internal investigation and consulted with outside counsel in the U.S. Relying on advice of outside counsel, on September 6, 2004, Interturbine Germany's Vice President for Business Development requested that the shipment be returned to the United States from Germany and Bayern-Chemie released it to Interturbine Germany.

Interturbine Germany then sent it to Interturbine Texas. However, on September 9, 2004, U.S. Customs and Border Protection seized the shipment of DC 93-104 when it arrived in Dallas, Texas from Germany. U.S. Immigration and Customs Enforcement initiated a criminal investigation with the U.S. Department of Justice, Northern Division of Texas.

This resultant investigation led to Respondents' engaging outside export counsel and the development of significant compliance and remedial measures. The compliance measures included a review of all products in inventory and a confirmation of inter-company controls. The employees who violated company policies, as well as applicable laws, were administratively sanctioned by Interturbine.

REQUIREMENTS

Section 122.1(a) of the ITAR provides that any person who engages in the United States in the business of either manufacturing or exporting defense articles is required to register with the Directorate of Defense Trade Controls.

Section 123.10(a) of the ITAR provides that a Non-transfer and Use Certificate (Form DSP-83) is required for the export of significant military equipment (SME) and classified technical data.

Section 127.1(a)(1) of the ITAR provides that it is unlawful to export or attempt to export from the United States, or to re-export or retransfer or attempt to re-export or retransfer from one foreign destination to another foreign destination by a U.S. person of any defense article or technical data or by anyone of any U.S. origin defense article or technical data or to furnish any defense service for which a license or written approval is required by the ITAR without first obtaining the

required license or written approval from the Directorate of Defense Trade Controls.

Section 127.1(d) of the ITAR provides that it is unlawful to knowingly or willfully cause, or aid, abet, counsel, demand, induce, procure or permit the commission of any act prohibited by, or the omission of any act required by 22 U.S.C §2778, 22 U.S.C. §2779, or any regulation, license, approval or order issued thereunder.

Section 127.2(a) of the ITAR provides that it is unlawful to use any export or temporary import control document containing a false statement or misrepresenting or omitting a material fact for the purpose of exporting any defense article or technical data or the furnishing of any defense service for which a license or approval is required by the ITAR. Section 127.2(b) of the ITAR provides that a Shipper's Export Declaration (SED) is an export or temporary import control document.

CHARGES

Charge 1 - Unauthorized Exports.

Interturbine Texas violated section 127.1(a)(1) of the ITAR when it exported to Germany, USML Category IV(f) SME ablative material, without the appropriate authorizations from the DDTC.

Charge 2 - Misrepresentation and Omission of Facts.

Interturbine Texas violated section 127.2(a) of the ITAR when on August 6, 2004 it used an export control document containing misrepresentations and omissions of facts for the purpose of exporting a defense article.

Charges 3-4 - Willfully Causing an Unauthorized Export.

Interturbine Germany violated sections 127.1(a) and 127.1(d) of the ITAR when it conspired with and willfully caused and permitted Interturbine Texas to export USML Category IV(f) SME ablative material without the appropriate authorization from DDTC, and conspired with and caused Interturbine Texas to use an export control document containing misrepresentations.

Charge 5 - Unregistered Exporter.

Interturbine Texas violated section 122.1(a) of the ITAR when it engaged in the export of a defense article without being registered with the Department.

Charge 6 - Failure to Obtain Non-Transfer Assurance.

Interturbine Texas violated section 123.10(a) of the ITAR when it failed to obtain a non-transfer and use certificate (Form DSP-83) for the export of SME.

Charge 7 - Unauthorized Retransfer.

Interturbine Germany violated section 127.1(a) of the ITAR when it retransferred without authorization USML Category IV(f) SME ablative material to Bayern-Chemie without DDTC authorization.

ADMINISTRATIVE PROCEEDINGS

Pursuant to Part 128 of the ITAR, administrative proceedings are instituted by means of a charging letter against Respondent for the purpose of obtaining an Order imposing civil administrative sanctions. The Order issued may include an appropriate period of debarment, which shall generally be for a period of three years, but in any event will continue until an application for reinstatement is submitted and approved. Civil penalties, not to exceed \$500,000 per violation, may be imposed as well in accordance with section 38(e) of the AECA and section 127.10 of the ITAR.

A Respondent has certain rights in such proceedings as described in Part 128 of the ITAR. Currently, this is a proposed charging letter. However, in the event

that you are served with a charging letter, you are advised of the following matters: You are required to answer the charging letter within 30 days after service. If you fail to answer the charging letter, your failure to answer will be taken as an admission of the truth of the charges. You are entitled to an oral hearing, if a written demand for one is filed with the answer, or within seven (7) days after service of the answer. You may, if so desired, be represented by counsel of your choosing.

Additionally, in the event that you are served with a charging letter, your answer, written demand for oral hearing (if any) and supporting evidence required by section 128.5(b) of the ITAR, shall be in duplicate and mailed to the administrative law judge designated by the Department to hear the case. These documents should be mailed to the administrative law judge at the following address: USCG, Office of Administrative Law Judges G-CJ, 2100 Second Street, SW Room 6302, Washington, D.C. 20593. A copy shall be simultaneously mailed to the Director, Office of Defense Trade Controls Compliance, U.S. Department of State, 2401 E. Street, NW, Washington, D.C. 20037. If you do not demand an oral hearing, you must transmit within seven (7) days after the service of your answer, the original or photocopies of all correspondence, papers, records, affidavits, and other documentary or written evidence having any bearing upon or connection with the matters in issue. Please be advised also that charging letters may be amended from time to time, upon reasonable notice. Furthermore, pursuant to § 128.11 of the ITAR, cases may be settled through consent agreements, including after service of a proposed charging letter.

Be advised that the U.S. Government is free to pursue civil, administrative, and/or criminal enforcement for violations of the AECA and the ITAR. The Department of State's decision to pursue one type of enforcement action does not preclude it, or any other department or agency, from pursuing another type of enforcement action.

Sincerely,

Daniel J. Buzby
Acting Director
Office of Defense Trade Controls Compliance